THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.35344 of 1997

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the respondent in not treating the period of suspension from 2.3.1995 to 30.11.1995 as duty period and not releasing the increments of the petitioner from September 1997 is arbitrary and illegal and consequently direct the respondent to treat the period of suspension from 2.3.1995 to 30.11.1995 as duty period and to release the increments due to the petitioner from September, 1997 onwards.

It appears, petitioner was suspended from service with effect from 2.3.1995 pending enquiry into certain allegations made against him. After conducting a detailed enquiry, by order dated 28.11.1995, the disciplinary authority imposed punishment of stoppage of two increments with cumulative effect which shall have the effect of postponing future increments. Further, the period of suspension was treated as not spent on duty and the petitioner shall not be entitled for any wages for the period of suspension. However, the amounts already paid towards subsistence allowance shall not be recovered. Aggrieved by the same, the petitioner carried the matter in appeal before the Board/Appellate Authority. The petitioner received a communication dated 11.4.1996, whereunder he was informed that;

> "With reference to your appeal dated 16.12.1995 to the Board on the punishment imposed by the Chairman and Disciplinary Authority communicated to you vide letter No.DP.371/95-96 dated 21.11.1995, we have to advise that the Board and Appellate Authority at their 125th Board Meeting held on 10.4.1996 after careful examination of your appeal is pleased to reduce the punishment to '*stoppage of two increments which shall*

not have the effect of postponing future increments'."

Aggrieved by the same, the present writ petition is filed.

It is the contention of the learned counsel for petitioner that the appellate authority did not confirm the order passed by the disciplinary authority insofar as suspension period which was treated as not on duty. The appellate authority held that the petitioner was not entitled for full wages for the said period, therefore, it must be deemed that the appellate authority has not approved suspension of the petitioner. In fact the appellate authority reduced the punishment of postponing of two increments with cumulative effect to that of without cumulative effect. This itself shows that it was not the intention of the appellate authority to confirm the order passed by the disciplinary authority in treating the period of suspension as not on duty.

Whereas, the learned counsel for respondents contended that it must be deemed that the appeal was considered only to the extent of stoppage of two increments with cumulative effect to that of without cumulative effect and it must be deemed that the order of the disciplinary authority insofar as treating the suspension period as not on duty is confirmed.

I am of the opinion that the appellate authority has not recorded any definite finding. Once the stoppage of two increments with cumulative effect has been reduced to that of without cumulative effect, the suspension period also ought to have been treated as on duty. But however, there was no such finding recorded by the appellate authority.

In view of the above, while confirming the impugned order, the matter is remitted back to the Board/appellate authority to re-consider the matter as to treating the service of the petitioner during the period of suspension as on duty and pass appropriate orders within a period

of four weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU,
J

Date: 16.3.2007

DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.35344 of 1997

16.3.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.35344 of 1997

Date: 16th March, 2007

Between:

R.Chitti Babu

.. Petitioner

And

The Chairman and Disciplinary Authority,
Sri Visakha Grameena Bank, Srikakulam.

.. Respondent